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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,485	03/09/2004	Vahid Saadat	USGINZ00130	3298

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

MAIL DATE	DELIVERY MODE
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08/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,485

Applicant(s)

SAADAT ET AL.

Examiner

Matthew J. Kasztejna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 67-80, 82-85 and 87-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 67-80, 82-85 and 87-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 21, 2007 has been entered.

Notice of Amendment

In response to the amendment filed on June 21, 2007, amended claims 67, 79-80, 85, 87 and 92-93 are acknowledged. The following new grounds of rejection are set forth:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 67-80, 82-85 and 87-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,899,673 to Ogura et al. in view of U.S. Patent No. 3,643,653 to Takahashi et al.

In regards to claims 67-68, 80, 82-83, 85, 87-89 and 92-93, Ogura et al. disclose an endoluminal apparatus comprising: an elongated main body 11 having a

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proximal end, a distal end and at least one lumen extending through the main body the main body having at least a first section 25 near the proximal end and a second section 24, near the distal end, and with the first section comprising a plurality of link (see Figs. 1-2), wherein the first section may be selectively switched between a substantially flexible condition and a substantially rigid condition (see Col. 8, Lines 16-35), wherein the second section is steerable relative to the first section (see Figs. 12-14 and Col. 2, Lines 19-45). Ogura et al. are silent with respect to a scope extended through at least a portion of the lumen and the scope being moveable through the lumen relative to the main body. Takahashi et al. disclose an analogous endoluminal apparatus having a major or parent endoscope 1 and a minor or son endoscope 2 adapted to be inserted into the guide channel 11 of the major endoscope (See Fig. 1 and Col. 1, Lines 39-60). It would have been obvious to one skilled in the art at the time the invention was made to pass an endoscope through the main body lumen in the apparatus of Ogura et al. in order to provide an additional scope capable of inspecting an image of an object such as an internal organ of a living body at higher magnification as taught by Takahashi et al.

In regards to claim 69, Ogura et al. disclose an endoluminal apparatus, comprises an atraumatic tip having at least one opening corresponding to the at least one lumen (see Fig. 12).

In regards to claims 70, Ogura et al. disclose an endoluminal apparatus, wherein the second section may be switched between a flexible state and a

substantially rigid state independently of the first section (see Figs. 12-14 and 17a-c and Col. 11, Lines 1-16).

In regards to claims 71-74, Ogura et al. disclose an endoluminal apparatus, with substantially each link in the first section configured to allow partial rotation relative to adjacent links and with the links arranged so that the first section can bend in at least two dimensions (see Figs. 2-3).

In regards to claim 75, Ogura et al. disclose an endoluminal apparatus, further comprising at least one tensioning element 34, 35 routed through the elongated main body, wherein compression of the plurality of adjacent links by a tensioning element places at least the first section, or second section or both sections into the substantially rigid condition (see Fig. 2).

In regards to claims 76-79, Ogura et al. disclose an endoluminal apparatus, further comprising at least two liners 36 extending along a length of the elongated main body (see Figs. 2, 4 and 23).

In regards to claims 84, Ogura et al. disclose an endoluminal apparatus, further comprising a Y-port located along the first section, wherein the Y-port is in communication with at least one lumen extending through the elongated main body (see Fig. 1).

In regards to claims 90-91, Ogura et al. disclose an endoluminal apparatus, with substantially each first link having a contoured front surface adapted to engage with a contoured back surface of an adjacent first link and at least one lumen extending there through (see Figs. 2-3).

In regards to claim 94, Ogura et al. disclose an endoluminal apparatus, with the second section comprising a plurality of links (see Fig. 3a-b).

Response to Arguments

Applicant's arguments with respect to claims 67-94 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

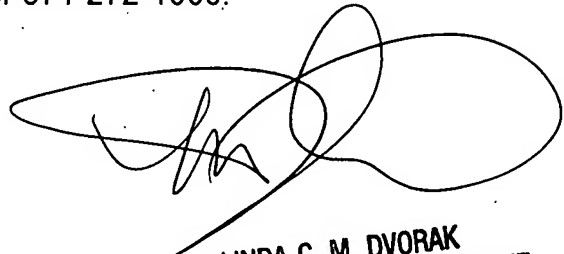
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK 

8/15/07



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